
Part 2 Pre-Award

Section 01 Special Award Conditions, the Departmental Alert List, and Debarment

A. Principles

Purpose. This Grants Policy Directive (GPD) contains HHS policies for identifying organizations that present a high risk for poor performance. In addition, it specifies the policies related to the use of the Departmental Alert List and the "GSA List of Parties Excluded from Federal Procurement and Nonprocurement Programs."

Scope. This GPD supplements the requirements in 45 CFR 74.14 and 92.12 that outline the HHS regulatory basis for designating a recipient as "high risk" and imposing special conditions on HHS awards, hereafter referred to as "high risk/special award conditions." It also references the suspension and debarment provisions found at 45 CFR Part 76, Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).

B. Policy

Use of Special Award Conditions. It is HHS policy to use special award conditions as a means of protecting the Government's interests and effecting positive change in grantees' performance or compliance, including the quality of their management systems. Special award conditions of a programmatic and/or administrative nature may be appropriate if an organization has a history of poor programmatic performance, is financially unstable, has inadequate management systems, or has not complied with the terms of previous HHS awards. If special conditions are included in an award, the awarding office will be required to designate the grantee as "high risk/special award conditions" and to take the other related actions specified in this GPD.

Special award conditions may include one or more of the following as appropriate for the specific grant or grantee. The potentially adverse impact of a particular special condition(s) on a grantee's ability to carry out the program must be considered and be balanced with the need to protect the Government's interests.

- (1) Use of a reimbursement payment method rather than advance funding. If a special award condition relates to payment, the awarding office must notify the Director, Division of Payment Management (PMS) (see paragraph C.2.b. below).
- (2) Use of the deductive method for accounting for program income.
- (3) More frequent financial or progress reporting than otherwise required under the program or allowed by 45 CFR Parts 74 or 92.

Departmental Alert List. In order to notify all HHS awarding offices of entities considered "high risk/special award conditions" by one or more awarding offices and/or those for which the Office of Inspector General (OIG) has issued an Alert, HHS maintains the Departmental Alert List ("Alert List" or "list" for purposes of this GPD).

An OPDIV should notify the Office of Grants Management (OGM) that an organization should be placed on the Departmental Alert List only in relation to a "high risk/special award conditions" designation based on the current use of special conditions in an award(s) (see paragraph B.1 above). The OIG may recommend that an organization should be placed on the list based on adverse findings in an organization's most recent audit under Office of Management and Budget (OMB) Circular A-133 (or other audits affecting more than a single OPDIV's programs conducted by or on behalf of the Government).

Inclusion on the Departmental Alert List does not automatically disqualify an organization from receiving an HHS grant or cooperative agreement nor should it be used as sole justification for not making an award. Rather, the list serves as one indicator of the need for additional protections for awards to the organization. However, the fact that an organization is not on the Alert List does not relieve a Grants Management Officer (GMO) from making appropriate pre-award determinations of the organization's capability to carry out an award. Upon review of the Alert List and consideration of the basis for the "high- risk/special award conditions" designation or the issuance of an OIG Alert, an awarding office must determine whether it will independently designate the organization as "high risk/special award conditions" in accordance with Part 74 or 92 and this GPD.

A "high risk/special award conditions" designation remains in effect until it is removed by the awarding office. However, the OPDIV must take a separate action to inform OGM of the need to remove the organization from the Alert List. An organization will remain on the Departmental Alert List until OGM receives such notification from the OPDIV's designated Alert List point of contact (see paragraph C.2.a. below). OGM will consult with all affected OPDIVs and the OIG, if appropriate, prior to removing an organization from the list.

Generally, organizations should not remain on the Alert List for more than 2 years. That period of time should be adequate for the grantee and the awarding office(s) to complete and assess the effectiveness of required corrective actions (see paragraph C.2.b. below for GMO/awarding office responsibilities). OPDIVs or the OIG must provide justification to OGM for keeping an organization on the list for more than 2 years. List of Parties Excluded from Federal Procurement and Nonprocurement Programs. This list is issued monthly by the General Services Administration. The GMO must review the portions of the list dealing with exclusion from nonprocurement programs to determine the eligibility status of an applicant prior to award. At a minimum, this should occur just prior to award. Information about the list and access to it are available electronically at http://www.arinet.gov:8000/epl/owa/epl_login.display_intro.

C. Responsibilities

Office of Grants Management. OGM is the focal point for maintenance of the Departmental Alert List. In that capacity, OGM serves a coordinating role for information provided by the OPDIVs and by the OIG. OGM updates the list at least quarterly and maintains it electronically at <http://www.hhs.gov/progorg/gmotools/alertlist.html>.

OPDIV Responsibilities.

OPDIV Chief Grants Management Officers. The OPDIV Chief GMO or designee serves as a single point of contact with OGM and other OPDIVs on Alert List matters. The OPDIV Chief GMO or designee also serves as the single point of contact with OGM on suspension and debarment matters.

Grants Management Officers. GMOs are required to ensure that the Departmental Alert List and the List of Parties Excluded from Federal Procurement and Non-procurement Programs have been consulted prior to making an award. In consultation with Program Officials and, as necessary, with the OPDIV Chief GMO, GMOs should ensure that appropriate actions are taken based on their findings. They are also

required to notify their designated OPDIV point of contact when an organization is designated as "high risk/special award conditions."

This notification must provide the specific reasons for the designation and may be accomplished by sending a copy of the award and its transmittal letter to the OPDIV point of contact. If a special condition relates to payment, the GMO must also provide formal written notification to the Director, PMS.

If an award contains special conditions, the GMO must ensure that the grantee is aware of those conditions and understands the action that is necessary to satisfy them. This includes developing a corrective action plan with the affected grantee, monitoring improvement, and assessing, at the conclusion of the corrective action period (generally no more than 2 years), whether the special award conditions can be removed.

The GMO must maintain documentation of the corrective actions and the awarding office's efforts to assist the grantee in eliminating the deficiencies which resulted in the imposition of the special award conditions.

Once the special award conditions are satisfied, the GMO is responsible for removal of the conditions and notification to the OPDIV's Alert List point of contact and the Director, PMS, as appropriate. This may be accomplished by providing a copy of correspondence sent to the grantee.

Office of the Inspector General. The National External Audit Review Center (NEARC) is the HHS focal point for receipt of OMB Circular A-133 audits and other cross-cutting audits. As part of its review of those audits, NEARC may determine that audit findings should be brought to the attention of the HHS OPDIVs for appropriate action. This is accomplished by the issuance of NEARC Alerts, sent to OPDIV Audit Liaison contacts and OGM, that indicate the nature of the problem, and inclusion of a statement that the organizations will be considered for placement on the Departmental Alert List.